



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,146	02/11/2005	Gerard Thevenot	0541-1038	2410
466	7590	07/25/2006	EXAMINER	
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			HOLZEN, STEPHEN A	
			ART UNIT	PAPER NUMBER
			3644	

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/524,146	THEVENOT, GERARD	
	Examiner	Art Unit	
	Stephen A. Holzen	3644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-11 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

a. The species are as follows:

- i. Transport Means, as illustrated in Figure 6 (Claim 9 only)
- ii. Body Protection Means, as illustrated in Figures 1 and 3 (Claims 1-8 and 10-11 only)

b. Upon election of one of groups "i" or "ii" above, applicant is further required to elect the association of the device with its intended use:

- iii. Disassociated therefrom (portions of claim 1)
- iv. Integral thereto (portions of claim 1)

c. If applicant elects "ii" above, then applicant must further elect one of the following types of body protection means:

- v. Jacket
- vi. T-Shirt
- vii. Chasuble

d. Upon electing one of 1"i" or "ii" applicant must further elect the species related to the inflation activation means:

- viii. Automatic (portions of claim 1)
- ix. Manual (portions of claim 1)

- e. Upon electing one of groups "i" or "ii" above, applicant must further elect the species related the shape of the frame:
 - x. Cylindrical (portions of claim 1)
 - xi. Spherical (portions of claim 1)
 - xii. Parallelepiped (portions of claim 1)
- f. Upon electing one of groups "i" or "ii" above, applicant must elect the species related to the structure to which the inner wall mates with:
 - xiii. Inside face of the outer wall only (portions of claim 2)
 - xiv. The frame only (portions of claim 2)
 - xv. Inside face of the outer wall & and the frame (portions of claim 2).

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

2. The claims are deemed to correspond to the species listed above.

The following claim(s) are generic: none.

Claim 1 is generic to claims 2-8 and 10-11, however is not generic to claim 9. Claim 9 appears to be dependant from claim 1, however, claim 9 is a stand alone independent claim that does not employ any of the elements of limitations of claim 1. If applicant elects the embodiment encompassing "The Transport means" (illustrated in Figure 6) the examiner will object to claim 9 as an improper dependant claim; since as disclosed these embodiments are not related in form, function or manner of use. The disclosed embodiment of Figure 6 is not generically encompassed by the limitations of claim 1.

3. The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons. Initially it should be recognized that the claimed inventions do not fit into a single permitted combination of different categories of inventions. Secondly they do not share the same technical features because there the inventions as claimed do not overlap in scope, i.e. are mutually exclusive, the inventions as claimed are not obvious variants and the invention as claimed are have a materially different design and mode of operation.

4. A telephone call was made to Benoit Castel on 7/20/2006 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103 (a) of the other invention.

Notes to Applicant

5. The examiner strongly recommends that applicant rewrite the claims in such a manner that they comply with 35 USC 112. The present claims are replete with 112 1st and 2nd issues (Lack of antecedent, indefiniteness, ambiguous language, etc.)
6. Further, the examiner cannot find all the critical features, required for the invention to function as disclosed, in the claims. There appears to be gaps in the necessary working elements.
7. The examiner cannot find all the claimed limitations in the figures, and further cannot tell what all is illustrated in Figure 1. (Is this a garment that one wears or is this separate structure?) The specification fails to clearly define what all is illustrated in the figures.

8. In hopes of advancing prosecution, the examiner strongly recommends that applicant review the originally filed claims and amend them so that they comply with US format. The applicant should be careful not to add new matter.

9. Should the applicant elect Species "a(ii)" applicant is strongly recommended to amend the claims to recite, "A Garment comprising..." (or similar language). Failure to do so will risk prolonging prosecution.

10. Should applicant elect Species "a(i)" applicant is strongly recommended to amend the claims to recite "An aircraft comprising..." (or similar language). Failure to do so will risk prolonging prosecution.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen A. Holzen whose telephone number is 571-272-6903. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teri Luu can be reached on 571-272-7045. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Sah


7/24